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February 18, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S. W. - Room TWB-204
Washington, D. C. 20554

Re: Ex parte, CC Docket No. 00-4, Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region InterLATA Services in Texas

Dear Ms. Salas:

On Thursday, February 17, 2000, Julie Chambers, Nancy Dalton, Sarah DeYoung, Lori Hall, Roy Hoffinger, Mark Van De Water and the undersigned of AT&T and Kathleen LaValle of Cohan, Simpson, Cowlshaw and Wulff met with the following representatives of the Commission's Common Carrier Bureau: Audrey Wright, Jessica Rosenworcel, John Stanley, Alex Belinfante, Claire Blue, William Agee, Neil Fried, Daniel Shiman and Josephine Scarlett. The purpose of the meeting, consistent with the Commission's January 10, 2000 Public Notice (DA 00-37), was to provide an overview of the reply comments that AT&T would be filing in this proceeding on Tuesday, February 22, 2000.

AT&T indicated its reply comments would address (1) the limited and narrowly focused local competition in Texas; (2) SWBT's failure to provide nondiscriminatory access to UNE loops (voice and data); (3) the unlawful nonrecurring charges SWBT assesses when CLECs order the UNE platform; and (4) SWBT's failure to provide nondiscriminatory access to its operations support systems ("OSSs"). In addition, I am attaching a list of planned affidavits to reveal other topics to be addressed in AT&T reply comments that, due to the amount of time allotted to AT&T for the meeting, we were not able to cover with the Commission staff.

With respect to the non-recurring "glue" charges challenged by AT&T (i.e., the loop, port and loop to switch port cross-connect non-recurring charges), AT&T explained that it is not here objecting to the assessment of such charges when AT&T orders UNEs that have not previously been combined by SWBT to serve such customers, or when AT&T orders a local loop to provide service to a customer using its

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own switch. AT&T does, however, object to the application of those charges when CLECs seek to provide service to a former SWBT customer by ordering the same pre-existing combination of UNEs (including the loop and the switch) that SWBT was using to provide service to that customer prior to its conversion to CLEC service. In that circumstance -- which represents the overwhelming majority of AT&T orders to SWBT for UNEs -- SWBT does not perform any of the recombining work that was the purported basis for establishing these charges. See Declaration of Daniel Rhinehart, submitted as part of AT&T's January 31, 2000 Opposition to SWBT's Application in this Docket, paragraphs 36-42. The fact that SWBT has chosen to attach these charges to orders for stand-alone UNEs or new combinations is irrelevant, and does not justify their application in circumstances where work is not performed and costs are therefore not incurred.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206 (b) of the Commission's rules.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Simone", with a stylized flourish at the end.

ATTACHMENT

cc: W. Agee
A. Belinfante
C. Blue
N. Fried
J. Rosenworcel
J. Scarlett
D. Shiman
J. Stanley
A. Wright

**AT&T Reply Comments
CC Docket No. 00-4**

Affidavits

Operations Support Systems	Nancy Dalton/Sarah DeYoung
Unbundled Network Elements – Loops	Sarah DeYoung
Pricing	Daniel Rhinehart
Performance Measurements	C. Michael Pfau

TPUC Comments to FCC

- All UNE charges are “cost based, forward looking, based upon TELRIC.” (p. 25)
- The NRCs were based on “averages that took into account the fact that different request for UNEs to serve different customers would entail different amounts of work. The charges were established at a time when the Texas Commission was precluded by the 8th Circuit’s decision from taking into consideration that certain UNEs may exist in already combined form. As a result, the non-recurring charges reflect the weighted, forward-looking cost of all combinations, both pre-existing and new.” (p. 26)

"Averaging" theory foreclosed by:

- (1) TPUC's prior findings and statements
- (2) The record before the TPUC
- (3) SWBT's abandonment of theory

TPUC had consistently stated that NRCs are “not cost based,” but were designed to compensate SWBT for “hypothetical” work

Mega Arbitration

- Because “SWBT has the right to ‘uncombine’ and then recombine UNEs,” the NRCs “reflect the recombining of uncombined UNEs.” Rhinehart, para. 25
- The NRCs reflect charges for the “hypothetical” recombining of UNEs “as if they were being put back together.” Id.

1998 TPUC 271 proceeding

- “The Commission interpreted [8th Cir. decision] as saying you’ve got to pay for it as if they are being put back together. So we calculated what that rate should be and said y’all may charge that rate.” Id., (quoting TPUC at 4/28/98 Open Mtg.)

TPUC had consistently stated that NRCs are “not cost based,” but were designed to compensate SWBT for “hypothetical” work

District Court

- The NRCs are based on the view, post 8th Circuit, that SWBT was “entitled to receive compensation ... for the expense of ... any combining that would have had to be performed if the elements were not already combined.” Id., para. 27 (quoting TPUC brief).
- ‘The PUC did not permit AT&T or MCI to acquire elements in combined form at cost based rates.’ Id., para. 25 (quoting TPUC brief).
- The NRCs represent “the combination fee ... [o]n top of the TELRIC cost.” Id., para. 27 (quoting TPUC counsel at oral argument).

Note: No support for “averaging” theory in briefs or at oral argument.

TPUC had consistently stated that NRCs are “not cost based,” but were designed to compensate SWBT for “hypothetical” work

Fifth Circuit

As it has told the FCC, the TPUC told the Fifth Circuit that in establishing NRCs, it did not “differentiate” between existing and new combinations.” But its explanation for this to the FCC differs fundamentally from what it told the 5th Circuit:

“In setting [the NRCs], [T]he PUCT followed the 8th Circuit’s opinion.... [T]he 8th Circuit had made clear that the new entrant must bear full responsibility for combining, regardless of whether the requested elements were already combined. This ruling meant that SWBT was entitled to compensation for the cost of combining elements irrespective of whether the elements were already combined.” Rhinehart Dec., Att. 10 at 6 (TPUC 5th Cir Brief)(emphasis added).

TPUC asks for remand, rather than defending “averaging” theory on the merits.